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Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

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Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XLIX. Nursing Facility Administrators

Chapter 1. General Provisions

§101. Source of Authority; Title

A. The rules and regulations herein contained constitute, and comprise and shall be known as the "Rules and Regulations of the Board of Examiners of Nursing Facility Administrators of the State of Louisiana," and are hereby promulgated pursuant to the authority granted to, and imposed upon, the said board under and pursuant to the provisions of the state licensing statute.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2504.C.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Examiners of Nursing Home Administrators, April 1970, amended LR 6:276 (June 1980), amended by the Department of Health and Hospitals, Board of Examiners of Nursing Home Administrators, LR 18:181 (February 1992).

§103. General Definitions

A. Whenever used in these rules and regulations, unless expressly otherwise stated, or unless the context or subject matter requires a different meaning, the following terms shall have the respective meanings hereinafter set forth or indicated.

Act of Administration—encompasses the decision-making process in the planning, organizing, directing and/or controlling the operation of a nursing home whether or not there is an ownership interest in the home. The administrator:

- a. is responsible for the procurement and direction of competent personnel;
- b. organizes the day-to-day functions of the nursing home through appropriate delegation of duties;
- c. establishes formal means of accountability on the part of subordinates to whom he has assigned duties; and
- d. has sufficient freedom from other responsibilities to permit adequate attention to the management and administration of the nursing home.

i. *Full-Time Administrator*—an administrator who is licensed, and currently registered and engaged in the act of administration and the activity must be the major function of the person performing the act. In the performance of the act, the administrator shall spend an adequate and reasonable amount of time on the premises and a major portion of that time shall be during the normal work week of the key personnel of the home. No full-time administrator shall function as such for more than two nursing homes, which shall be in close proximity and the response time shall be no greater than one hour from facility to facility and from residence to facility.

ii. *Administrator-in-Training*—one who has met the provisions of §§503, 505 and 507; and is under the general supervision of a full-time nursing home administrator, duly licensed in the state of Louisiana, for a period of at least six consecutive months and who is preparing for licensing.

iii. *Consultant Administrator*—an administrator who is licensed and currently registered and who functions in an advisory capacity to an administrator or associate administrator; has no delegated authority; and functions on an intermittent basis. There shall be no limit on the number of homes with which a consultant administrator may work.

iv. *Provider Representative*—a person charged with general administration of a nursing home on a temporary basis when a home is without a licensed administrator, as approved by the Bureau of Health Services Financing.

Board—the Board of Examiners of Nursing Facility Administrators of the State of Louisiana.

Nursing Home—a place authorized as such by the appropriate licensing authority of this state.

Nursing Home Administrator—any individual who is or may be charged with the general administration of a nursing home and who has been licensed and registered by the board in accordance with the provisions of R.S. 37:2501.

Person—an individual, and does not include the terms *firm*, *corporation*, *association*, *partnership*, *institution*, *public body*, *joint stock association* or any other group of individuals.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2501 and R.S. 37:2504.C.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Examiners of Nursing Home Administrators, April 1970, amended LR 6:276 (June 1980), amended by the Department of Health and Hospitals, Board of Examiners of Nursing Home Administrators, LR 18:181 (February 1992).

§105. Notification of Change

A. Every licensed nursing home administrator shall immediately notify in writing the office of the Louisiana Board of Examiners of Nursing Facility Administrators of any and all changes in name, address, position, and other information originally submitted on their application. Failure to comply with this rule within 10 days of the change will result in a penalty as set forth in this Part.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2504.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Examiners of Nursing Home Administrators, April 1970, amended by the Department of Health and Hospitals, Board of Examiners of Nursing Home Administrators, LR 18:181 (February 1992).

Chapter 3. Board of Examiners

§301. Meetings

A. The board shall meet regularly at least once every calendar quarter.

B. The chairman or vice-chairman, acting for and in the absence of the chairman, may call special meetings thereof when, in his judgment, circumstances or the function of the board requires it.

C. Upon written petition of a simple majority of the members of the board, the chairman or vice-chairman acting for and in the absence of the chairman, shall be obliged to call a special meeting for purposes cited in said petition.

D. The board as a public body operates in accord with R.S. 42:1-R.S. 4:13. The conduct of meetings, notices, voting, record keeping, and so on shall be in accord with these statutes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2503 and R.S. 37:2504.C.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Examiners of Nursing Home Administrators, April 1970, amended by the Department of Health and Hospitals, Board of Examiners of Nursing Home Administrators, LR 18:181 (February 1992), amended by the Department of Health and Hospitals, Board of Examiners of Nursing Facility Administrators, LR 20:790 (July 1994).

§303. General Powers

A. The board shall exercise such powers as provided by the laws of this state pertaining to the licensing and registration of nursing home administrators.

B. From time to time the board shall publish a newsletter and a directory of licensed nursing facility administrators, and shall make and publish such rules and regulations not inconsistent with law as it may deem necessary and proper for the execution and enforcement of the law and rules and regulations governing the licensing and registration of nursing facility administrators.

C. The board shall exercise quasi-judicial powers not inconsistent with the law, including the power to issue subpoenas, compel the attendance of witnesses, and administer oaths.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2504.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Examiners of Nursing Home Administrators, April 1970, amended by the Department of Health and Hospitals, Board of Examiners of Nursing Home Administrators, LR 18:181 (February 1992), amended by the Department of Health and Hospitals, Board of Examiners of Nursing Facility Administrators, LR 20:790 (July 1994).

§305. Officers and Duties

A. The board shall elect biennially at its regular meeting prior to July 1, from among its members, a chairman and a vice-chairman. The chairman and the vice-chairman shall not immediately succeed themselves in the same positions

which they have held for two full two-year terms. The terms shall commence July 1, and end June 30. The chairman of the board shall, with the consent of the majority of the board, designate an executive director who shall not be a member of the board.

B. The chairman shall preside at all meetings of the board and shall sign all official documents of the board. In the absence of the chairman, the vice-chairman shall preside at meetings and perform all duties usually performed by the chairman.

C. In addition to the duties imposed by law, the executive director shall attend all meetings of the board; keep a full and complete record of the minutes of said meetings; notify the members of the board of the time and place fixed for meetings of the board; maintain the records pertaining to licensees and registrants and the rules and regulations; countersign all licenses and certificates of registration and official certificates of approval and certification issued by the board.

D. The executive director shall conduct all routine correspondence for the board, shall issue all notices of meetings and hearings, shall have custody of all books, records and property of the board and shall perform all duties pertaining to the office of executive director. The executive director shall biennially, in accordance with the directives of the state office of the legislative auditor, submit financial records for audit. The audit results, on receipt, will be promptly distributed to all members of the board for review.

E. The executive director shall receive all monies payable to the board, shall disburse funds, and keep such financial records as are approved by the budget committee or board.

F. The chairman shall be authorized to appoint any committee he deems necessary.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2503 and R.S. 37:2504.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Examiners of Nursing Home Administrators, April 1970, amended LR 6:276 (June 1980), LR 9:461 (July 1983), amended by the Department of Health and Hospitals, Board of Examiners of Nursing Home Administrators, LR 18:181 (February 1992), amended by the Department of Health and Hospitals, Board of Examiners of Nursing Facility Administrators, LR 20:790 (July 1994).

§307. Board Member Per Diem

A. Board members shall be paid \$75 per day during which board business is conducted. This rule shall not apply to board members who represent agencies of the state of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2504 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Nursing Facility Administrators, LR 26:693 (April 2000).

Chapter 5. Examinations

§501. Scheduling of Examinations and Re-Examinations

A. The board shall determine the subjects for examinations of applicants for licensing as a nursing home administrator, and the scope, content, form and character of such examinations, which in any examination shall be the same for all candidates.

B. Examinations shall be held regularly at least once each calendar quarter, at such times and places as shall be designated by the board.

C. Following the close of every examination the results of the questions submitted and the answers made thereto by the applicant shall be kept by the board for a period of six years. These may be destroyed at the end of such period.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2504 and R.S. 37:2505.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Examiners of Nursing Home Administrators, April 1970, amended LR 6:276 (June 1980), amended by the Department of Health and Hospitals, Board of Examiners of Nursing Home Administrators, LR 18:181 (February 1992).

§503. Pre-Examination Requirements: Conditions Precedent

A. No person shall be admitted to or be permitted to take an examination for licensing as a nursing home administrator unless he shall have first submitted evidence satisfactory to the board that he:

1. is 21 years of age or older;
2. is a citizen of the United States of America, or that he has duly declared his intention of becoming a citizen of the United States;
3. is of good moral character;
4. is physically and mentally suitable and fit to be licensed and to practice as a nursing home administrator; and
5. has successfully completed 60 or more semester hours of college credit in an accredited institute of higher learning, with an overall C average. Fifteen of the 60 hours must be in any combination of the following courses:
 - a. accounting;
 - b. business law;
 - c. economics;
 - d. general health care;
 - e. gerontology;
 - f. management;
 - g. marketing;
 - h. nutrition;
 - i. physical science;
 - j. psychology; and
 - k. sociology.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2504 and R.S. 37:2505.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Examiners of Nursing Home Administrators, April 1970, amended LR 6:276 (June 1980), amended by the Department of Health and Hospitals, Board of Examiners of Nursing Home Administrators, LR 18:181 (February 1992), amended by the Department of Health and Hospitals, Board of Examiners of Nursing Facility Administrators, LR 20:789 (July 1994).

§505. Application for Examination

A. An applicant for examination for a license as a nursing home administrator shall apply in writing, on forms provided by the board, and shall furnish evidence satisfactory to the board that he has met the pre-examination requirements as provided for in the state licensing statutes and §503 of these rules and regulations; and

1. a candidate for examination shall submit with his notarized application, the examination fee and two letters from individuals engaged in either business or professional work, but not related by blood or marriage, who shall certify to the good moral character of the applicant;

2. an applicant for examination who has been convicted of a felony by any court in this state, or by any court of the United States, or by any court of any other state of the United States, shall not be admitted to, or be permitted to take the examination provided for herein, unless he shall first submit to, and file with the board, a certificate of good conduct granted by the board of parole or, in the case of a conviction in any jurisdiction wherein the laws do not provide for the issuance of a certificate of good conduct, an equivalent written statement or document;

3. an applicant who withdraws his application for licensing after it is processed and ready for submission to the board for consideration shall be entitled to a refund of one-half of the original application fee.

B. To establish suitability and fitness to qualify for a licensing statute, prior to being permitted to take the examination for license as a nursing home administrator, the applicant shall furnish evidence satisfactory to the board of:

1. absence of physical impairments which would prohibit the performance of the duties of a nursing home administrator;

2. absence of any mental impairment that would appear to the board to prohibit the performance of the duties of a nursing home administrator.

C. The basic requirements for suitability set forth herein are to be considered minimal and may not be waived.

D. The applicant shall attach to his application a finished unmounted recent photograph of himself. This photograph must not be less than 2 inches by 3 inches in size.

E. The board may designate a time and place at which an applicant may be required to present himself for inquiry as to his suitability as provided for herein.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2504.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Examiners of Nursing Home Administrators, April 1970, amended by the Department of Health and Hospitals, Board of Examiners of Nursing Home Administrators, LR 18:181 (February 1992).

§507. Conditional Admission to Examination; Disqualification; Re-Application

A. The board may conditionally admit to examination for licensing as a nursing home administrator an applicant who, on the date of a scheduled examination, has not fully established his qualifications if, in the judgment of the board, it appears that he is otherwise qualified. Unless such applicant submits satisfactory evidence that he qualifies for examination within 30 days following the date of such examination, the board shall notify the applicant that he is not qualified for licensing.

B. An applicant for examination who has been disqualified shall be given written notification by the board of his disqualification and the reasons therefor and of his right to a hearing.

C. An applicant for examination who has been disqualified may petition the board in writing within 30 days of notification of disqualification for a hearing and a review of his application.

D. When an applicant for examination has been disqualified, he may submit a new application to qualify for examination; however, he shall be required to meet the requirements for licensing as shall be in force at the time of such re-application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2504 and R.S. 37:2505.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Examiners of Nursing Home Administrators, April 1970, amended LR 6:276 (June 1980), amended by the Department of Health and Hospitals, Board of Examiners of Nursing Home Administrators, LR 18:181 (February 1992).

§509. Subjects for Examination and Continuing Education

A. Every applicant for a license as a nursing home administrator, after meeting the requirements for qualification for examination as set forth in §503 of these rules and regulations, shall successfully pass a written examination. The following shall be considered as guidelines with respect to the subjects for the written examination and continuing education:

1. management and administration;
2. environmental health and safety;
3. resident care;
4. therapeutic and support care services;
5. laws, rules, regulations, and guidelines affecting long-term care.

B. Nothing contained in this rule shall preclude the board from providing for examinations which exclude subjects for examinations which shall be in derogation of, or in conflict with, the teachings and practice of any recognized religious faith, provided, however, any applicant seeking to be entitled to such examination hereunder shall submit evidence satisfactory to the board that he is in fact an adherent of such recognized religious faith; and that his license so indicates.

C. The board may conduct courses on nursing facility administration, especially designed for applicants and for licensees, when the demand is sufficient to defray expenses. Individuals who desire this course shall pay \$15 per hour of instruction.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2504 and R.S. 37:2505.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Examiners of Nursing Home Administrators, April 1970, amended LR 9:684 (October 1983), LR 14:23 (January 1988), amended by the Department of Health and Hospitals, Board of Examiners of Nursing Home Administrators, LR 18:181 (February 1992), amended by the Department of Health and Hospitals, Board of Examiners of Nursing Facility Administrators, LR 20:789 (July 1994).

§511. Grading Examinations

A. Every candidate for licensing as a nursing facility administrator shall pass the State Standards Examination and the N.A.B. National Examination by scores established by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2504 and R.S. 37:2505.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Examiners of Nursing Facility Administrators, April 1970, amended by the Department of Health and Hospitals, Board of Examiners of Nursing Home Administrators, LR 18:181 (February 1992), amended by the Department of Health and Hospitals, Board of Examiners of Nursing Facility Administrators, LR 20:790 (July 1994).

Chapter 7. Administrator-in-Training (AIT)

§701. Program

A. An applicant must serve as a full-time (40 hours per week) administrator-in-training for a minimum of six consecutive months. The program may be completed or begun before or after taking examinations so long as it is carried out strictly according to Chapter 7. During this time the AIT must work under close, direct, personal, on-site supervision of a full-time preceptor who shall be administrator of record or licensed nursing home administrator serving as assistant administrator in the facility in which the AIT undertakes training.

1. Any part-time or full-time employment while undertaking an AIT program shall have prior approval of the board.

2. No person shall undertake an AIT program while serving as director of nursing or head of any other department within a nursing home.

B. Facility. The AIT receives all training in the nursing home designated in his initial report unless the board grants prior approval for a change. The facility must be certified and participating in Medicare and/or Medicaid and have no current deficiency that is a threat to the health and safety of residents.

C. Schedule. The AIT rotates through each department of the nursing home spending on a continuous basis the entire period of time required in each department. He must serve at least once on all shifts in departments where shifts are used and at least two weekends. The major portion of training must be during the normal work week (7 a.m. to 5 p.m.) of key personnel of the home.

D. Rotation. The preceptor assigns these rotation intervals in the sequence he desires and may assign the AIT for a longer period in any or all departments.

Department	Weeks	Hours
Administration	9	360
Nursing	5	200
Dietary	4	160
Patient Activity	2	80
Social Work	2	80
Medical Records	2	80
Physical Resource Management	2	80
NOTE: A week is defined as seven days, Sunday through the following Saturday.		

E. Interruptions. If, for any reason (i.e., illness, resignation of preceptor, etc.), the AIT must interrupt training, the AIT and/or the preceptor notifies the board office immediately.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2504.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Examiners of Nursing Home Administrators, April 1970, amended LR 6:276 (June 1980), LR 10:499 (July 1984), LR 12:511 (August 1986), amended by the Department of Health and Hospitals, Board of Examiners of Nursing Home Administrators, LR 18:181 (February 1992), amended by the Department of Health and Hospitals, Board of Examiners of Nursing Facility Administrators, LR 20:790 (July 1994), LR 21:175 (February 1995).

§703. Preceptor

A. Requirement. The preceptor is a duly licensed nursing home administrator who has completed three years of work experience as a full-time practicing nursing home administrator and/or licensed assistant administrator. The preceptor applies for board approval as a preceptor on forms provided by the board. He undergoes orientation and other designated training conducted by the executive director, a board member, or other authorized person and cannot practice as a preceptor until he has specific approval of the board. If a preceptor is disciplined by the board, he must apply for recertification as a preceptor.

B. Time. The preceptor is on-site and available to supervise at least 20 hours per week, and is available at least by telephone at all other times.

C. Number of AIT's. A preceptor may train no more than two AIT's at a given time. A preceptor serving as administrator of more than one facility may train no more than one AIT at a given time.

D. Duties. The preceptor carries out these duties:

1. schedules the AIT's rotation through departments and assigns AIT duties in a manner that provides the best quality of training;
2. monitors AIT's performance on a regular basis;
3. instructs the AIT on management principles and standards established by the Department of Health and Human Services, Medicare and Medicaid, Bureau of Health Services Financing, Office of Social Services, Occupational Safety and Health Administration (OSHA), American National Standards Institute (ANSI), Life Safety Code, the board of examiners rules and regulations, and other federal and state regulations pertaining to nursing homes;
4. includes AIT in meetings of the facility board, department heads, staff, and others involving administration;
5. evaluates AIT's performance with him at least monthly;
6. ensures that AIT reports are properly completed and mailed as required;
7. notifies the board in writing, in advance whenever possible, if the need to terminate an AIT arises, giving reasons and requesting board approval before final action is taken.

E. Change in Preceptor. No change in preceptor may be made without prior approval of the board. Preceptor and/or AIT notify the board, in advance, when any change must be made.

F. Preceptor Update. Preceptors must undertake biennial update training sponsored by the board in order to maintain this certification. The training qualifies as required continuing education.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2504.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Examiners of Nursing Home Administrators, April 1970, amended LR 6:276 (June 1980), LR 9:62 (February 1983), LR 10:499 (July 1984), LR 12:512 (August 1986), amended by the Department of Health and Hospitals, Board of Examiners of Nursing Home Administrators, LR 18:181 (February 1992), amended by the Department of Health and Hospitals, Board of Examiners of Nursing Facility Administrators, LR 19:1023 (August 1993).

§705. Reports

A. The following reports must be filed with the board on forms supplied by the board.

1. Initial Report and Orientation

a. The AIT and the preceptor undergo orientation conducted by the executive director, a board member or other authorized person.

b. The initial report is filled out and signed under oath by both AIT and preceptor prior to the beginning of the program. It is a contract between the AIT, the preceptor, and the board. The board reviews and approves the program.

2. Departmental Reports. The board furnishes the preceptor with a report form for each department, specifying the basic topic areas that must be covered. The report is signed by the AIT and the appropriate department head. The preceptor writes an evaluation on each report, signs and mails it to the board immediately upon the AIT's completion of rotation in a department.

3. Certificate of Completion. At the end of the program a Certificate of Completion form is signed under oath by AIT and preceptor and forwarded to the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2504.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Examiners of Nursing Home Administrators, April 1970, amended LR 6:276 (June 1980), LR 9:62 (February 1983), LR 12:512 (August 1986), amended by the Department of Health and Hospitals, Board of Examiners of Nursing Home Administrators, LR 18:181 (February 1992).

§707. Board Monitoring

A. The AIT's program may be monitored by on-site visit one or more times by the executive director, a board member, or other authorized person.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2504.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Examiners of Nursing Home Administrators, April 1970, amended LR 6:276 (June 1980), LR 12:512 (August 1986), amended by the Department of Health and Hospitals, Board of Examiners of Nursing Home Administrators, LR 18:181 (February 1992).

§709. Oral Examination

A. Upon completion of the program and receipt of the Certificate of Completion the AIT undergoes an oral examination to ensure she/he is sufficiently knowledgeable to be licensed. The examination is conducted by the executive director, a board member, or other authorized person. When the AIT passes the oral examination his license is issued.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2504.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Examiners of Nursing Home Administrators, April 1970, amended LR 6:276 (June 1980), LR 12:512 (August 1986), amended by the Department of Health and Hospitals, Board of Examiners of Nursing Home Administrators, LR 18:181 (February 1992).

§711. Time Limitation

A. Failure to begin the six-month AIT within one year of the date an applicant passes the licensing examinations results in loss of all accomplishments and fees, unless otherwise authorized by the board. An applicant completing his AIT program before taking his examinations must take the first examinations offered following completion of the AIT, unless otherwise authorized by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2504.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Examiners of Nursing Home Administrators, April 1970, amended LR 6:276 (June 1980), LR 12:512 (August 1986), amended by the Department of Health and Hospitals, Board of Examiners of Nursing Home Administrators, LR 18:181 (February 1992), amended by the Department of Health and Hospitals, Board of Examiners of Nursing Facility Administrators, LR 20:1110 (October 1994).

§713. Waivers

A. Provisions for the six-month AIT, or portions thereof, may be waived on the basis of:

1. Education. Full waiver is granted if applicant has a degree in health care administration that included an internship or the internship was waived by the college or university on the basis of experience;

2. Experience. Waiver may be granted for any portion of the AIT for experience in the health care field that meets or exceeds AIT requirements in his/her specialty and/or other areas as approved by the board. Request for waivers are to be submitted with the application and properly documented on forms supplied by the board:

a. Examination. All applicants for a full waiver undergo an oral examination conducted by a board member or an authorized representative. Applicants for partial waiver may be required to undergo an oral examination in those areas for which waiver is requested;

b. Non-Participating Facility Experience. No full waiver will be granted for experience gained in a facility that is not certified for and does not participate in Medicare and/or Medicaid. All applicants applying for waiver based on experience in a non-participating facility must undergo an oral examination.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2504.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Examiners of Nursing Home Administrators, April 1970, amended LR 6:276 (June 1980), LR 12:512 (August 1986), amended by the Department of Health and Hospitals, Board of Examiners of Nursing Home Administrators, LR 18:181 (February 1992).

Chapter 9. Continuing Education

§901. Purpose

A. Continuing education is designed to meet requirements and qualifications for registration of a license as a nursing home administrator under and pursuant to the state licensing statute and these rules and regulations. Its major purpose is to ensure that licensees continue to increase their knowledge of long-term care, improve their management skills, and keep abreast of changes in state and federal regulations that affect the long-term care industry.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2504 and R.S. 37:2507.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Examiners of Nursing Home Administrators, April 1970, amended LR 11:864 (September 1985), amended by the Department of Health and Hospitals, Board of Examiners of Nursing Home Administrators, LR 18:181 (February 1992).

§903. Requirements

A. Number of Hours. Each licensee must complete 30 hours of approved continuing education, or the portion thereof designated by the board, during the two-year period preceding the date of re-registration of licenses.

1. A person newly licensed between January 1, and December 31, of an even-numbered year must complete 30 hours of continuing education for the biennium beginning the following July. A person newly licensed between January 1, and December 31, of an odd-numbered year must complete 15 hours of continuing education for the second half of the biennium beginning the following July, and complete another 30 hours for the next biennium beginning July of the following odd-numbered year.

B. Definition of Hour. A continuing education hour is 1 clock hour-60 minutes. Sessions scheduled for three continuous hours are counted as 2 3/4 clock hours. Fifteen minutes are allowed for a break.

1. Only full and half-hours are counted. Any quarter hours shown in the total hours of training are dropped.

2. One credit hour of a college course counts as 13 clock hours of continuing education.

C. Certificates. Each approved provider of continuing education must provide each participant with a certificate indicating topic, number of hours, and date of program. Transcripts from accredited institutions of higher learning are considered as having met this provision.

1. Any provider who certifies to an untruth will no longer be eligible to provide programs of study that have board approval.

2. Licensees are required to attach a copy of these certificates to their biennial re-registration applications to verify they have completed the required continuing education.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2504 and R.S. 37:2506.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Examiners of Nursing Home Administrators, April 1970, amended LR 6:276 (June 1980), amended by the Department of Health and Hospitals, Board of Examiners of Nursing Home Administrators, LR 18:181 (February 1992), amended by the Department of Health and Hospitals, Board of Examiners of Nursing Facility Administrators, LR 19:1023 (August 1993), repromulgated LR 19:1322 (October 1993).

§905. Registration of Institutions as Providers of Continuing Education Courses

A. The board approves providers of training courses which may be credited as continuing education. An educational institution, association, professional society, organization, or individual who wishes to provide approved continuing education for nursing home administrators applies to the board on forms provided by the board. The application is reviewed and applicants who are established, reputable providers of continuing education are approved. Approval is not required of colleges for regular college courses.

B. Period of approval is July 1 of a given year to June 30 of the following year. Providers must re-apply each year.

C. A fee of \$200 annually is paid by providers who impose charges to course participants. Government agencies are exempt from the fee.

D. National Continuing Education Review Services (NCERS) approved programs are exempt from the requirement that providers be approved by the board. The approval of programs by NCERS, operated by the National Associations of Boards of Examiners of Nursing Home Administrators, Inc., meets board requirements.

E. Non-approved provider training cannot be used to meet the continuing education requirement. Licensees who want to take such courses should encourage the provider to seek approval.

F. Programs offered by organizations that do not seek provider approval may be approved on an individual basis. Individual licensees may seek this approval by applying to the board. When the organization applies there is a fee of \$25. There is no fee when the individual licensee applies.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2504 and R.S. 37:2506.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Examiners of Nursing Home Administrators, April 1970, amended LR 14:149 (March 1988), amended by the Department of Health and Hospitals, Board of Examiners of Nursing Home Administrators, LR 18:181 (February 1992), amended by the Department of Health and Hospitals, Board of Examiners of Nursing Facility Administrators, LR 19:1023 (August 1993), LR 20:788 (July 1994).

§907. Approval of Programs of Study

A. Approval of individual programs is given when:

1. the provider is approved as required under §905 of the rules and regulations;

2. content of the program is in accord with subject areas listed in §509. No less than 50 percent of a licensee's total continuing education hours must be in subjects applicable to long-term care;

3. it is a college course, including correspondence, on any health care subject, or the course is taken for credit toward a college degree;

4. the course is specifically designed for nursing home administrators, or a related course that has been submitted to the board for specific approval. Example of the latter is a course principally for hospital personnel, directors of nursing, or food service managers. The board could, upon receipt of special request, approve the course for licensees;

5. it is a home study course which has been approved by NCERS or reviewed and approved by the board's education committee;

6. length of the training session is at least one hour;

7. the course is open to any licensee;

NOTE: Credit will not be given for courses offered by an organization for its administrators only; and

8. the program is submitted for approval prior to the beginning date.

B. Submission of individual courses of study are made by the provider on forms supplied by the board. The provider must complete them in detail showing actual clock hours, topics, speakers, dates, and addresses at which the training is to be conducted.

1. Dissemination of material to licensees can be done by the board if programs are forwarded to the board as far in advance of course dates as possible. Providers are encouraged to submit their course schedule for the entire year when feasible.

2. College course applications submitted by individual licensees must contain catalog information on course number, name, and number of college-hour credit. They are to be submitted before or during the time the course is taken.

C. Monitoring by the board or its representative of sample courses may be done to observe quality of content of presentation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2504 and R.S. 37:2506.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Examiners of Nursing Home Administrators, April 1970, amended LR 13:240 (April 1987), amended by the Department of Health and Hospitals, Board of Examiners of Nursing Home Administrators, LR 18:181 (February 1992), amended by the Department of Health and Hospitals, Board of Examiners of Nursing Facility Administrators, LR 20:789 (July 1994).

§909. Exception

A. Nothing contained in this Chapter shall preclude the board from providing for any program of study which excludes subjects which shall be in derogation of, or in conflict with, the teachings and practice of any recognized religious faith, provided, however, any applicant seeking to be admitted to such program of study hereunder shall submit evidence satisfactory to the board that he is in fact an adherent of such recognized religious faith.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2504 and R.S. 37:2506.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Nursing Home Administrators, LR 18:181 (February 1992).

Chapter 11. Licenses

§1101. License Form

A. An applicant for a license as a nursing home administrator who has successfully complied with the requirements of the licensing laws and the standards provided for herein; and passed the examination provided by the board and submitted notarized forms certifying to the AIT prerequisite shall be issued a license on a form provided for that purpose by the board, certifying that such applicant has met the requirements of the laws, rules and regulations entitling him to serve, act, practice and otherwise hold himself out as a duly licensed nursing home administrator.

1. Upon completion of his AIT program an applicant who has passed his examinations shall remit the final report and the Certificate of Completion immediately. He shall

complete all other requirements and be licensed within 35 days of completion of the AIT, unless otherwise authorized by the board.

2. An applicant who completes his AIT program before passing the examinations shall remit the final report and Certificate of Completion immediately, and shall undergo any required oral examination as scheduled by the board. Within 10 working days after receiving notice he has passed his examinations he shall remit his Initial Registration form with fees, unless otherwise authorized by the board.

B. Any license issued by the board shall be under the signature of the chairman and the executive director of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2504 and R.S. 37:2506.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Examiners of Nursing Home Administrators, April 1970, amended by the Department of Health and Hospitals, Board of Examiners of Nursing Home Administrators, LR 18:181 (February 1992), amended by the Department of Health and Hospitals, Board of Examiners of Nursing Facility Administrators, LR 20:789 (July 1994), repromulgated LR 20:1110 (October 1994).

§1103. Registration of Licenses and Certificates

A.1. Every person who holds a valid license as a nursing home administrator issued by the board shall immediately upon issuance thereof be deemed registered with the board and issued a certificate of registration. Thereafter, such individual shall annually apply to the board for a new certificate of registration and report any facts required by the board on forms provided for such purpose.

2. No license, re-registration certificate or licensee card may be copied for any purpose. An administrator in charge of two nursing homes must purchase copy number two of his certificate from the board.

3. Charges for replacement and/or second copies shall be:

- a. permanent license—\$25;
- b. re-registration certificate—\$5;
- c. licensee card—\$3.

B.1. Upon making an application for a new certificate of registration such licensee shall pay an annual registration fee of \$245 and, at the same time, shall submit evidence satisfactory to the board that, during the annual period immediately preceding such application for registration, they have attended a continuing education program or course of study as provided in Chapter 9 of these rules and regulations. A copy of the certificate(s) of attendance for 15 hours of approved continuing education shall be attached to the annual re-registration application.

2. A licensed nursing home administrator no longer practicing in Louisiana may place his license in an inactive status. He shall continue to register his license annually but is exempt from continuing education requirements. Should a licensee wish to reactivate their license they shall undergo

60 days of on-site re-orientation under supervision of a board-approved preceptor, unless such person has been actively practicing in another state and meets Louisiana continuing education requirements.

C. Upon receipt of such application for registration, the registration fee and the evidence required with respect to continuing education, the board shall issue a certificate of registration to such nursing home administrator.

D. The license of a nursing home administrator who fails to comply with the provisions of this Section shall be suspended by the board and the license will automatically lapse.

E. Only an individual who has qualified as a licensed and registered nursing home administrator and who holds a valid current registration certificate pursuant to the provisions of these rules for the current biennial registration period, shall have the right and the privilege of using the title, "nursing home administrator" and have the right and the privilege of using the abbreviation "N.H.A." after his name. No other person shall use or shall be designated by such title or such abbreviation or any other words, letters, sign, card, or device tending to, or intended to indicate that such person is a licensed and registered nursing home administrator.

F. The board shall maintain a file on all applicants for licensing and all registered nursing home administrators, which file shall contain the place of residence, name of each applicant; the name and address of current employer or business connection of each applicant; the date of application; complete information of educational and experience qualifications with dates; the license number and registration certificates issued to the applicant; the date on which the board reviewed and acted upon the application; and the board shall maintain a complete file of such other pertinent information as may be deemed necessary.

G. The board shall maintain a register of all licenses.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2504.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Examiners of Nursing Home Administrators, April 1970, amended LR 9:461 (July 1983), LR 11:864 (September 1985), amended by the Department of Health and Hospitals, Board of Examiners of Nursing Home Administrators LR 18:181 (February 1992), amended by the Department of Health and Hospitals, Board of Examiners of Nursing Facility Administrators, LR 25:1627 (September 1999), LR 25:2407 (December 1999), repromulgated LR 26:82 (January 2000), LR 26:316 (February 2000).

§1104. Penalties

A. The board shall take action against any person when there is substantial evidence that such person has:

1. attempted by fraud or misrepresentation to obtain a license for himself or another or to furnish aid or abet therein; or

2. practiced as a nursing home administrator under cover of a license or registration illegally or fraudulently obtained or unlawfully issued; or

3. practiced as a nursing home administrator, or uses in connection with his or her name any designation tending to imply that he or she is a nursing home administrator, or allows himself or herself to be represented as a nursing home administrator unless duly licensed and registered under provisions of this Chapter; or

4. practiced as a nursing home administrator during the time his or her license is suspended or revoked by the board; or

5. otherwise violated any other provision of this Chapter.

B. Upon receipt of substantial evidence that any person committed one of these violations the board conducts an investigation. If evidence is substantiated the board shall file with the local district attorney a misdemeanor charge against said person. Each violation is a misdemeanor punishable by fine of not more than \$1,000 or by imprisonment for not more than one year or both.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2509.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Examiners of Nursing Home Administrators, April 1970, amended LR 14:149 (March 1988), amended by the Department of Health and Hospitals, Board of Examiners of Nursing Home Administrators, LR 18:181 (February 1992).

§1105. Refusal, Suspension and Revocation of License

A. Board Review; Notice of Hearing

1. Upon the determination that a licensee has violated one or more provisions of this Part the board may suspend, revoke, or refuse to issue a license or certificate of registration for nursing home administrator found in violation of this Part. In addition, the board may place a licensed administrator on probation, and/or in remedial training, and/or officially reprimand or otherwise discipline a licensee, including but not limited to the imposition of a fine as set forth in this Part.

2. Once a complaint under the categories that follow has been received by the board, the board shall provide licensee with adequate notice and an opportunity to respond as provided in Chapter 13 of this Part.

a. Category One

i. has violated any of the provisions of the law, code, rules, or regulations of the agency of the state, or political subdivisions thereof, having jurisdiction over licensing and operating of nursing facilities, which violation resulted in a threat to the safety and health of the resident(s) of the facility;

ii. has submitted false claims in excess of \$500 for services that were not rendered by the facility;

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iii. has failed to maintain the required records and to follow federal and state procedures for the handling of residents' personal funds;

iv. has failed to handle and/or account for facility funds in accordance with generally accepted accounting principles;

v. has attempted to secure or procure a nursing home administrator license in a manner inconsistent with rules and regulations of the board;

vi. has been found guilty or pled guilty or nolo contendere to use of any drug listed in Schedule I of the Louisiana Criminal Code;

vii. has demonstrated physical or mental inability to operate a nursing facility under his jurisdiction in a manner consistent with federal and state standards and rules and regulations of the board;

viii. has practiced while license is in suspension;

ix. has transferred or surrendered possession, either temporarily or permanently, of his license or certificate to any other person.

b. Category Two

i. has intentionally violated any provision of law, code, rules, or regulations of the agency of the state, or political subdivisions thereof, having jurisdiction over licensing and operations of nursing facilities, which violation does not result in a threat to the health and safety of residents of the facility;

ii. has submitted false claims of less than \$500 for services that were not rendered by the facility;

iii. has practiced without biennial registration after written notification by certified receipt mail;

iv. has committed acts of misconduct in the operation of a nursing home, which includes but is not limited to discrimination, sexual harassment, and failure to attend to duties of the administrator;

v. has impersonated another licensee; and

vi. has violated any of the provisions of the law pertaining to the licensing of administrators, or rules and regulations of the board pertaining thereto.

c. Category Three

i. has practiced misleading, or deceptive advertising;

ii. has paid, given, has caused to be paid or given or offered to pay or to give a commission or other consideration for solicitation or procurement, either directly or indirectly, of nursing home residents to any referral source which shall include, but not be limited to hospitals, other nursing homes, physicians, clinics, dentists, nurses, home health agencies, and social workers;

iii. has failed to practice according to the professional ethics established by the board;

iv. has directly or indirectly condoned, directed, or allowed actions by his subordinates which are in violation of the aforementioned rules.

d. Category Four

i. has failed to re-register his license as required by the board;

ii. has failed to notify the board of a change in employment, address, and/or other information included on the initial application for licensing.

e. Category Five. Has committed a subsequent violation of category one, two, or three within a five-year period of having been found in violation of this Part by the board.

3. Disciplinary Action

a. Category One. A fine of not less than \$500 nor more than \$2,000, and/or probation not to exceed three years, and/or suspension of license for not less than 30 days nor more than three years, and/or remedial training or revocation of license.

b. Category Two. A fine of not less than \$250 nor more than \$1,500, and/or probation not to exceed two years, and/or suspension of license for not less than 30 days nor more than two years, and/or remedial training.

c. Category Three. A fine of not less than \$125 nor more than \$1,000, and/or probation not to exceed one year, and/or suspension of license for up to one year, and/or remedial training.

d. Category Four. A fine of not less than \$25 nor more than \$75, and in case of failure to re-register, license is suspended and licensee shall not practice until fine is paid and license re-registered. If re-registration is not complete within six months, license automatically lapses, except the board may, at its discretion, extend the suspension period upon documentation of extenuating circumstances presented prior to expiration.

e. Category Five. A fine of not less than \$500 nor more than \$5,000 and/or probation not to exceed five years and/or suspension of license for not less than 30 days nor more than five years and/or remedial training, or revocation of license.

B. Definitions

Extenuating Circumstances—illness or other debilitating condition, military duty, or other circumstance beyond the immediate control of the licensee as determined by the board.

False Claims—Medicare and/or Medicaid claims submitted to the fiscal intermediary in which billing is not consistent with federal and state regulations covering reimbursable costs.

Generally Accepted Accounting Principles—the accounting standards and principles developed primarily under influence of the Financial Accounting Standards Board and generally used by practicing accountants.

Intentionally—full knowledge and forethought of what one is doing and the consequences of his actions.

Probation—a trial period determined by the board during which licensee must not commit any offense that requires action of the board. To do so may result in suspension or revocation of license. Other conditions of probation may be established such as remedial training, attending certain training courses, supervision by a preceptor/consultant, and regular reports to the board.

Remedial Training—program in which the licensee secures services of a board-qualified preceptor consultant for a specified period of time. The consultant, under direction of the board office:

- a. makes study-assignments of board rules and regulations, standards of payment, federal and state regulations governing nursing facilities, and other appropriate materials;

- b. examines licensee on his knowledge of assignments, and makes reports to the board. The board may require licensee to re-take national and state examinations and attend certain training courses.

C. Voluntary surrender of a license is allowed provided a statement is signed and notarized by licensee stating his desire to submit to voluntary surrender of license and all benefits thereof, except no person may surrender his license while under investigation or indictment on any matter pertaining to the operation of a nursing home.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2504, R.S. 37:2509 and R.S. 37:2510.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Examiners of Nursing Home Administrators, April 1970, amended LR 6:276 (June 1980), LR 9:461 (July 1983), LR 12:366 (June 1986), amended by Department of Health and Hospitals, Board of Examiners of Nursing Home Administrators, LR 15:195 (March 1989), LR 18:181 (February 1992).

§1107. Reciprocity

A. The board, in its discretion, and otherwise subject to the law pertaining to the licensing of nursing home administrators and prescribing the qualifications for a nursing home administrator license, may endorse a nursing home administrator license issued by the proper authorities of any other state, upon payment of a registration fee determined by the board, passing a state examination and upon submission of evidence satisfactory to the board:

1. that such other state maintains a system and standard of qualification and examination for nursing home administrator licenses, which are substantially equivalent to those required in this state; or that the applicant is an administrator certified by the American College of Health Care Administrators;

2. the individual applicant has passed the Louisiana State Standards Examination;

3. that such applicant for endorsement is familiar with state and local health and safety regulations related to nursing homes; and

4. that such applicant for endorsement holds a current license which is not under suspension or revocation in at least one other state.

B. The basic minimum standards for endorsement of a license by reciprocity are that the applicant must meet licensing standards in effect in Louisiana at the time the applicant was licensed in the state from which he/she seeks reciprocity, but in no instance is applicant required to meet more than Louisiana standards; or has been licensed for at least five years and has practiced as a licensed administrator for at least three years. In lieu of an approved AIT program, one year of full-time experience as a practicing administrator will be considered.

C. A temporary license for a period not to exceed three months may be issued to a fully qualified reciprocity applicant upon payment of a registration fee determined by the board.

D. The board shall also have power after due notice and an opportunity to be heard at a formal hearing, to revoke or suspend the endorsement of a nursing home administrator license issued to such person by such state.

E. The action of the board in revoking or suspending such license or registration shall be reviewable by the court under and pursuant to the provisions of law provided for in such cases.

F. A Louisiana licensee who applies for reciprocity in another state must pay a \$25 fee to the board to cover costs of completing and mailing necessary forms to the other state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2504 and R.S. 37:2508.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Examiners of Nursing Home Administrators, April 1970, amended LR 9:461 (July 1983), LR 15:196 (March 1989), amended by the Department of Health and Hospitals, Board of Examiners of Nursing Home Administrators, LR 18:181 (February 1992), amended by the Department of Health and Hospitals, Board of Examiners of Nursing Facility Administrators, LR 19:1024 (August 1993), LR 20:1002 (September 1994).

§1109. Restoration and Reinstatement of Licenses

A. A license may be restored after revocation by the board at its discretion upon submission of evidence satisfactory to the board that the applicant for such restoration of license has removed the disability. The requirements of §505.A.2 shall be applicable to applicants for license who have been convicted of a felony. In the case of revocation of license due to a six-month suspension (§1105.A.3.d) or voluntary surrender, the applicant shall file a new application based on current requirements, as a new applicant, including sitting for all examinations.

B. Upon such application for restoration of a license, the board in its discretion may grant the applicant a formal hearing upon notice.

C. If a conviction is subsequently reversed on appeal and the accused acquitted or discharged, his license shall become again operative from its date of such acquittal or discharge.

D. An additional fee, determined by the board, shall be assessed for the reinstatement of a suspended license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2504 and R.S. 37:2511.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Examiners of Nursing Home Administrators, April 1970, amended LR 11:864 (September 1985), amended by the Department of Health and Hospitals, Board of Examiners of Nursing Home Administrators, LR 18:181 (February 1992).

§1111. Display of Licenses and Registration Certificates

A. Every person licensed as a nursing home administrator actively engaged in the profession shall display such license and certificate of annual registration in a conspicuous place in the office or place of business or employment of such licensee. Such license and certificate of biennial registration shall be shown, when requested, to a member of the board, a legally constituted officer of the board, or a law enforcement officer of the state of Louisiana or of a political subdivision thereof.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2504.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Examiners of Nursing Home Administrators, April 1970, amended LR 6:276 (June 1980), amended by the Department of Health and Hospitals, Board of Examiners of Nursing Home Administrators, LR 18:181 (February 1992).

§1113. Duplicate Licenses

A. Upon receipt of satisfactory evidence that a license or certificate of registration has been lost, mutilated, or destroyed the board may issue a duplicate license or certificate upon such conditions as the board may prescribe, and upon payment of a fee as determined by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2504.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Examiners of Nursing Home Administrators, April 1970, amended LR 6:276 (June 1980), amended by the Department of Health and Hospitals, Board of Examiners of Nursing Home Administrators, LR 18:181 (February 1992).

Chapter 13. Complaints and Hearing Procedures

§1301. Registration of Complaints

A. Any person, public officer, association, or the board, may prefer charges against any licensee for due cause.

B. Such proceedings shall begin by the filing of written charges with the board. Thereupon the chairman shall initiate an investigation of such charges, and, if indicated, shall designate three or more of its members thereof as a hearing committee or other qualified person as a hearing officer to hear the charges and report to the board thereon.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2504, R.S. 37:2509 and R.S. 37:2510.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Examiners of Nursing Home Administrators, April 1970, amended LR 9:461 (July 1983), LR 11:864 (September 1985), amended by the Department of Health and Hospitals, Board of Examiners of Nursing Home Administrators, LR 18:181 (February 1992).

§1303. Hearing Procedures

A. The board, the designated committee, or the hearing officer may hold a preliminary or formal hearing within 90 days of receipt of a written signed complaint. The board may receive the preliminary and/or formal hearing report at the following regularly scheduled or special meeting.

B. A copy of the charge, together with notice of the time and place of the formal hearing, shall be served on the accused at least 10 days before the date fixed for the hearing.

C. Where personal service cannot be effected and such fact is certified under oath by any person duly authorized to make legal service, the board shall cause to be published twice in each of two successive weeks, a notice of the formal hearing in a newspaper published in the parish in which the accused was last known to reside, and, on or before the date of the first publication. A copy of the charges and such notice shall be mailed to the accused at his last known address.

D. When publication of the notice is necessary, the date of the formal hearing shall be not less than 10 days after the last day of publication of the notice.

E. Upon receipt of a preliminary hearing report the board may:

1. dismiss the charges and take no action thereon, in which event the charges and the order dismissing the charges shall be filed with the board and all parties involved so notified; or

2. if the board decides that there shall be a formal hearing, the board, the designated committee, or the hearing officer shall determine the charges and set a time and place for a formal hearing to take place within 60 days.

F. Upon receipt of a formal hearing report the board may:

1. dismiss the charges and take no action thereon, in which event the charges and the order dismissing the charges shall be filed by the board and all parties involved so notified; or

2. if the board decides that the charges are valid, the board may dispose of the case as provided by law or regulation, or may take the case under advisement.

G. The board, in its discretion, may direct a rehearing or take additional evidence, and may rescind or affirm the prior determination after such rehearing, but nothing in the subdivision shall preclude appropriate relief under and pursuant to the laws of the state providing for the review of administrative determination by the courts of the state, as specifically outlined in R.S. 49:959.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2504, R.S. 37:2509 and R.S. 49:959.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Examiners of Nursing Home Administrators, April 1970, amended LR 9:461 (July 1983), amended by the Department of Health and Hospitals, Board of Examiners of Nursing Home Administrators, LR 18:181 (February 1992).

§1305. Conduct of Formal Hearings

A. At any formal hearing conducted pursuant to these rules, any party to the proceedings may appear personally and with counsel and shall be given the opportunity to produce evidence and witnesses and to cross-examine witnesses.

B. At any formal hearing conducted pursuant to these rules, if a party shall appear without counsel, the board or person(s) designated as hearing officers or hearing officer shall advise such party of his right to be represented by counsel; and that, if he desires to proceed without counsel, he may call witnesses, cross-examine witnesses, and produce evidence in his behalf.

C. Appearances shall be noted on the official record of formal hearings.

D. The board, designated committee or hearing officer may grant adjournments upon request of any party to the proceedings, provided that an adjournment shall not be for any indefinite period of time, but shall be set down for a certain day.

E. If an adjournment is requested in advance of the formal hearing date, such request shall be submitted to the board in writing, and shall specify the reason for such request.

F. In considering an application for adjournment of a formal hearing the board, the designated committee, or hearing officer shall consider whether the purpose of the formal hearing will be affected or defeated by the granting of such adjournment.

G. The board, designated committee, or hearing officer shall issue subpoenas and subpoena duces tecum upon request of any party to the proceedings of any formal hearing set down by the board. No subpoena shall be issued until the party who wishes to subpoena the witnesses first deposits with the agency a sum of money sufficient to pay all fees and expenses to which a witness in a civil case is entitled pursuant to R.S. 13:3661 and R.S. 13:3671. Witnesses subpoenaed to testify before an agency only to an opinion founded on special study or experience in any branch of science, or to make scientific or professional examinations, and to state the results thereof, shall receive such additional compensation from the party who wishes to subpoena such witness as may be fixed by the agency with reference to the value of the time employed and the degree of learning or skill required. Whenever any person summoned under this Section neglects or refuses to obey such summons, or to produce books, papers, records, or other data, or to give testimony, as required, the agency may apply to the judge of the district court for the district within which the person so summoned resides or is found, for an attachment against him for contempt. It shall be the duty of the judge to hear the application and, if satisfactory proof is made, to issue an attachment, directed to some proper officer, for the arrest of such person and, upon his being brought before him, to proceed with a hearing of the case; and upon such hearing, the judge shall have power to make

such order as he shall deem proper, not inconsistent with the law for the punishment of contempt, to enforce obedience to the requirements of the summons and to punish such person for his default of disobedience.

H. The role of the hearing officer is to conduct an orderly hearing, take evidence, question witnesses, make findings of fact and conclusions of law and render an opinion to the board within 10 days of said hearing. The hearing officer shall not be bound by the rules of evidence in the conduct of a formal hearing, but the determination and recommendations of the hearing officer shall be founded upon sufficient legal evidence to sustain it.

I. Upon the conclusion of a formal hearing, the board shall at its next regularly scheduled or specially called meeting take such action upon such written findings and determinations as it deems proper, and shall execute and order in writing involving such findings and determinations. When in an adjudication proceeding a majority of the officials of the board who are to render the final decision have not heard the case or read the record, or the proposed order is not prepared by a member of the agency, the decision, if adverse to the party to the proceeding other than the agency itself, shall not be made final until a proposed order is served upon the parties, and an opportunity is afforded to each party adversely affected to file exceptions and present briefs and oral argument to the officials who are to render the decision. The proposed order shall be accompanied by a statement of the reasons therefor and of the disposition of each issue of fact or law necessary to the proposed order, prepared by the person who conducted the formal hearing or by one who has read the record. No sanction shall be imposed or order be issued except upon consideration of the whole record and as supported by and in accordance with the reliable, probative, and substantial evidence. The parties by written stipulation may waive, and the agency, in the event there is no contest, may eliminate compliance with the Section.

J. The order of the board may include the assessment of civil penalties as provided by law or regulations. A final decision or order adverse to a party in an adjudication proceeding shall be in writing or stated in the record. A final decision shall include findings of fact and conclusions of law. Findings of fact, if set forth in statutory language, shall be accompanied by a concise and explicit statement of the underlying facts supporting the findings. If, in accordance with agency rules, a party submits a proposed finding, parties shall be notified either personally or by mail of any decision or order. Upon request, a copy of the decision or order shall be delivered or mailed forthwith to each party and to his attorney of record.

K. The record, minutes and evidence of a formal hearing shall be made available to all parties for examination at the office of the board, or at such place as the board may direct. Copies of the minutes may be purchased at the rate per page covering the cost thereof.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2504 and R.S. 37:2510.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Examiners of Nursing Home Administrators, April 1970, amended LR 9:461 (July 1983), amended by the Department of Health and Hospitals, Board of Examiners of Nursing Home Administrators, LR 18:181 (February 1992).

Chapter 15. Ethics

§1501. Board's Code of Ethics

A. Every person licensed as a nursing home administrator shall subscribe to and practice by the Code of Ethics established by the board. The board shall supply Code of Ethics forms to each administrator.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2504.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Examiners of Nursing Home Administrators, LR 9:684 (October 1983), amended by the Department of Health and Hospitals, Board of Examiners of Nursing Home Administrators, LR 18:181 (February 1992).

Chapter 16. Certified Nurses Aide Register

§1601. Operation of CNA Register

A. The board shall establish and operate a state register which shall include information mandated by the U.S. DHHS on certified nurse aides. The register shall be operated consistent with an inter-agency agreement with the Louisiana Department of Health and Hospitals' Division of Health Services Financing.

B. Information contained in the register shall be available to administrators of health care facilities as determined by DHH which shall be responsible for the actual certification of nurse aides and shall determine when a nurse aide is eligible to be placed on the register together with the listing of any violations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2504.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Nursing Facility Administrators, LR 21:1082 (October 1995).

§1603. Certificate of Certification

A. The board shall impose a fee for issuing a certificate, or a card of certification, in the amount of not more than \$10 per each year. There shall be a fee of not more than \$20 for replacement of a certificate or card of certification.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2504.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Nursing Facility Administrators, LR 21:1082 (October 1995).

Chapter 17. Applicability, Legal Effect, Separability

§1701. Applicability, Legal Effect, Separability

A. The rules and regulations of the Louisiana Board of Examiners of Nursing Facility Administrators are in concert with the new rules and regulations of the *Louisiana Register*, pursuant to the Louisiana Administrative Procedure Act (R.S. 49:950 et seq.).

B. In addition to the above, the rules of parliamentary procedure as laid down in *Roberts Rules of Order, Newly Revised* shall govern all meetings of the board.

C. These revised rules and regulations shall take effect on January 1, 1991, and shall replace those rules and regulations previously effective April 1, 1970; and revised on January 20, 1971; July 1, 1972; March 7, 1973; July 1, 1974; July 1, 1975; April 1, 1976; July 1, 1977; July 1, 1978; July 1, 1979; July 1, 1980; July 1, 1981; July 1, 1982; July 1, 1983; July 1, 1985; July 1, 1987; and July 1, 1989.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2504.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Examiners of Nursing Home Administrators, April 1970, amended January 1971, July 1972, March 1973, July 1974, amended LR 11:864 (September 1985), amended by the Department of Health and Hospitals, Board of Examiners of Nursing Home Administrators, LR 18:181 (February 1992), repromulgated LR 18:507 (May 1992).

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